

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:04-cr-90
)	
Jamey Douglas Reiswig,)	ORDER
)	
Defendant.)	

Before the Court is a request for modification of the terms and conditions of supervised release. The supervising probation officer seeks to add a term to the conditions of supervised release which would require the defendant to totally abstain for the use of alcoholic beverages. The defendant opposes the additional condition.

At the time of sentencing, August 9, 2005, the Court imposed a condition which prohibited the excessive use of alcohol. Supervision commenced November 15, 2007. Defendant has been compliant with the terms and conditions of his supervised release thus far. He is working. He admits to a certain amount of social drinking. There is no indication of excessive drinking. The underlying conviction was for possession with intent to distribute a controlled substance, methamphetamine.

A hearing on the matter was held on December 18, 2007. A representative of the USPO testified as to concerns with the defendant drinking and sliding into his old lifestyle. The defendant testified that he does not feel that his privilege to drink in moderation should be taken away when he has not caused any problems.

The Court will deny the request for modification. It is debatable whether a total abstinence clause sends a message or merely sets a defendant up for failure. The defendant correctly points out that thus far his supervision has gone well. Ultimately it will be the defendant who must decide if he will succeed or fail during his supervision. The Court has decided to give him the benefit of the doubt while reminding him that he is responsible for his actions.

IT IS SO ORDERED.

Dated this 19th day of December, 2007.

/s/ Patrick A. Conmy

Patrick A. Conmy, Senior District Judge
United States District Court